

FINDINGS: The Afghan constitution fails to explicitly protect the right to freedom of religion or belief, allows other fundamental rights to be superseded by ordinary legislation, and contains a repugnancy clause stating that no law can be contrary to Islam. As a result, individuals lack protection to dissent from state-imposed orthodoxy, to debate the role and content of religion in law and society, to advocate for the rights of women and members of religious minorities, or to question interpretations of Islamic precepts. Doing so risks unjust accusations of religious crimes such as apostasy and blasphemy. In high-profile cases, Afghan courts have not protected freedom of religion or belief in accordance with international standards, with the result that members of the majority Muslim community have been imprisoned for exercising their internationally guaranteed rights of freedom of expression on sensitive religious or social issues. In addition, the Afghan government continues to be unable to protect citizens against violence and intimidation by the Taliban and other illegal armed groups.

Based on these concerns, the Commission continues in 2010 to place Afghanistan on its Watch List. Afghanistan was first placed on the Commission's Watch List in 2006. In 2000 and 2001, USCIRF had recommended that the Taliban regime, then in control of most of Afghanistan's territory, be designated as a "particularly severe violator of religious freedom." The Secretary of State designated the Taliban as such in 1999 and 2000.

Conditions for religious freedom remain problematic, despite gains in human rights since the ouster of the Taliban regime in late 2001. Individuals who dissent from the prevailing orthodoxy regarding Islamic beliefs and practices are subject to legal action due to the influence of religious leaders. A government ministry announced it had destroyed Shi'a Muslim books from Iran, apparently because they contained material deemed offensive to the Sunni majority. Before final revision, a new Shi'a family or personal status law appeared to sanction marital rape and to require a husband's permission for a wife to leave home except in an emergency. Violence and intimidation by the Taliban and other insurgents poses a serious threat to human rights of all Afghans. Efforts at national reconciliation could potentially return Taliban or other insurgents hostile to international standards of human rights to positions of influence.

PRIORITY RECOMMENDATIONS: U.S. policy has not sufficiently prioritized human rights, including religious freedom, in Afghanistan. Promoting respect for freedom of religion or belief must be an integral part of U.S. strategy, particularly as the government of Afghanistan pursues a peace or reconciliation process with anti-government insurgents. USCIRF recommends the U.S. government should continue to maintain a high level of diplomatic, development assistance, and military engagement to preserve and consolidate the Afghan people's human rights gains since 2001. The U.S. government should clearly state its concern for religious freedom as an essential element in U.S. policy in Afghanistan; use its influence to support those who advocate respect for human rights, including freedom of religion or belief; support efforts to develop a judicial sector that upholds international standards of human rights; support the promotion of respect for human rights and of religious tolerance in public education; urge inclusion of representatives of civil society, including women and members of minority communities, in any reconciliation talks; and work to ensure that any reconciliation process does not provide immunity to known human-rights violators. Additional recommendations for U.S. policy towards Afghanistan can be found in the 2010 Annual Report by following this link: <http://www.uscifr.gov/images/ar2010/afghanistan2010.pdf>